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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,376	06/20/2003	Yasuki Motozawa	AB-1174-1D US	6299

7590

01/14/2004

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EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/600,376	MOTOZAWA ET AL.	
	Examiner	Art Unit	
	Hilary Gutman	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 7 is/are rejected.
- 7) ☒ Claim(s) 2,3,6 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>10/14/2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

On page 1, line 21, “a” should be inserted before “collision”.

On page 4, line 14, “compact” should be “compactness”.

On page 6, line 7, “place” should be “placed”.

On page 6, line 11, “compact” should be “compactness”.

On page 9, line 14, “includes” should be “include”.

On page 17, line 2, “of” should be inserted after “plurality”. Also on line 14, “pawl 1” should be “pawl 11”.

On page 21, line 6, “rod” should be “head”.

On page 21, line 9, “8e” should be “8b”.

On page 22, line 8, “occurs” should be deleted.

On page 24, line 18, “after” should apparently be inserted after “momentarily”.

On page 25, line 10, “obviates” should be “obviate”.

Appropriate correction is required.

2. The abstract of the disclosure is objected to because on line 11, “a” (both occurrences) should be “the”. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 4 is objected to because of the following informalities: on line 6, “moved to adjust its sliding position” should perhaps be “adjustably moved to a sliding position”. Appropriate correction is required.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 4, 5, and 7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-11 of U.S. Patent No. 6,604,771 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention recites a vehicle occupant protection apparatus comprising a seat, first actuator, cylinder, generator, and second actuator in combination with other elements recited which are also found recited in the 6,604,771 patent. More specifically, the “piston pushing member for generating force is thought to operate in the same manner as the generator for generating a piston pushing force. With regard to claims 4 and 5, the patent recites the limitations of these claims in claims 10 and 11 and with respect to claim 7 and the seat slide lock, claim 9 of the patent also recites this feature.

Allowable Subject Matter

6. Claims 1, 4, 5, and 7 would be allowable if a timely filed terminal disclaimer were submitted or if these claims were amended to overcome the double patenting rejection set forth above.

7. Claims 2-3, 6, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter for the claims in this case is the inclusion of the specific first actuator operable to apply an acceleration to the seat in the same direction as the impact load, the first actuator including: a cylinder; a piston movable within the cylinder; a generator for generating a piston pushing force; and a second actuator disposed inside the cylinder recited in independent claim 1, in combination with the other elements recited which is not found in the prior art of record.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3612

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. The examiner can normally be reached on M-F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

11. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).

Hilary Gutman
Hilary Gutman
3612
11/12/09